

BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Reinstatement of License of:

ELLEN C. ADAMS,

Petitioner.

OAH No. 2011050297

DECISION

This matter was heard before a quorum of the Board of Vocational Nursing and Psychiatric Technicians in Oakland, California, on May 19, 2011. Michael C. Cohn, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Nicholas P. Tsukamaki, Deputy Attorney General, represented the Department of Justice, Office of the Attorney General.

Petitioner Ellen Adams represented herself.

FACTUAL FINDINGS

1. Petitioner Ellen C. Adams was issued psychiatric technician license number PT28953 on March 17, 1994. In a default decision effective July 26, 2007, petitioner's license was revoked upon findings that she had been convicted in 1999 for driving under the influence of alcohol, in 2002 for a "wet reckless" and for possession of cocaine base, and in 2003 for possession of cocaine base.
2. Petitioner filed the petition for reinstatement of her license on January 6, 2011.
3. Petitioner was clean and sober from 2003 until 2008, when she relapsed to drug use after losing her home and finding herself homeless. After being found in possession of a controlled substance, in March 2008 she enrolled in the Napa County Alcohol and Drug Services' Adult Recovery Program. She successfully completed that program in November 2008. In February 2009 petitioner received a Certificate of Achievement from Napa County's Substance Abuse Treatment Program. She has maintained her sobriety since March 2008.
4. In December 2008 petitioner graduated from the nursing assistant program offered by the Napa County Office of Education. Through that program she was granted a Nursing Advancement Scholarship to be used for the CNA examination. Petitioner passed

that examination and was granted a Nurse Assistant Certificate in January 2009. She worked as a home health CNA from April to September 2010 and has been employed as a CNA at a nursing home in Napa since November 2010.

5. Although she has participated in chemical dependency support groups in the past, petitioner does not currently attend such a group. Instead, she says, she relies on her "firm belief in God" and the support of family, friends and God. If required by the board, however, petitioner would be willing to attend Alcoholics Anonymous or a similar support group.

LEGAL CONCLUSIONS

Petitioner established to the satisfaction of the board that it would not be against the public interest to reinstate her license upon specified terms and conditions. Those conditions must include abstinence from drugs and alcohol, biological fluid testing, and participation in a chemical dependency support group.

ORDER

The petition of Ellen C. Adams is granted. Petitioner's license shall be restored, the license shall then be immediately revoked, the revocation shall be stayed, and petitioner shall be placed on probation for three years upon the following terms and conditions:

1. **Obey All Laws** – Petitioner shall obey all federal, state and local laws, including all statutes and regulations governing the license. Petitioner shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the board within five days of occurrence.

To ensure compliance with this condition, petitioner shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within 30 days of the effective date of this decision, unless the board determines that fingerprints were previously submitted by petitioner to the board.

Petitioner shall also submit to the board a recent 2" x 2" photograph of herself within 30 days of the effective date of this decision.

If petitioner is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions.

2. **Compliance with Probation Program and Quarterly Report Requirements** – Petitioner shall fully comply with the conditions of the probation established by the board and shall cooperate with the representatives of the board in its monitoring and investigation of petitioner's compliance with the probation program.

Upon successful completion of probation, petitioner's license will be fully restored.

3. **Submit Written Reports** – Petitioner shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verification of actions as required by the board or its representatives. These reports or declarations shall contain statements relative to petitioner's compliance with all the conditions of the board's probation program. Petitioner shall immediately execute all release of information forms as may be required by the board or its representatives.

In the first report, petitioner shall provide a list of all states and territories where she has ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse. Petitioner shall provide information regarding the status of each license and any change in license status during the period of probation. Petitioner shall inform the board if she applies for or obtains a new nursing or psychiatric technician license during the period of probation.

Petitioner shall provide a copy of the board's decision to the regulatory agency in every state or territory in which she has applied for or holds a vocational/practical nurse, psychiatric technician and/or registered nurse license.

4. **Notification of Address and Telephone Number Changes** – Petitioner shall notify the board, in writing, within five days of any change in address or telephone number(s).

Petitioner's failure to claim mail sent by the board may be deemed a violation of these probation conditions.

5. **Notification of Residency or Practice Outside of State** – Petitioner shall notify the board, in writing, within five days, if she leaves California to reside or practice in another state. Periods of residency or practice outside of California shall not apply toward a reduction of this probation time period. If petitioner resides or practices outside of California, the period of probation shall be automatically extended for the same time period she resides or practices outside of California. Petitioner shall provide written notice to the board within five days of any change of residency or practice.

Petitioner shall notify the board, in writing, within five days, upon her return to California.

6. **Meetings with Board Representatives** – Petitioner shall appear in person at meetings as directed by the board or its designated representatives.

7. **Notification to Employers** – When currently employed or applying for employment in any capacity in any health care profession, petitioner shall notify her employer of the probationary status of petitioner's license. This notification to petitioner's current health care employer shall occur no later than the effective date of this decision. Petitioner shall notify any prospective health care employer of her probationary status with the board prior to accepting such employment. At a minimum, this notification shall be accomplished by providing the employer or prospective employer with a copy of the board's accusation and disciplinary decision.

The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse, Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical health care positions.

Petitioner shall cause each health care employer to submit to the board all performance evaluations and any other employment related reports as required by the board. Petitioner shall notify the board, in writing, of any difficulty in securing employer reports within five days of such an event.

Petitioner shall notify the board, in writing, within five days of any change in employment status. Petitioner shall notify the board, in writing, if she is terminated or separated, regardless of cause, from any nursing or health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Employment Requirements and Limitations** – Petitioner shall work in her licensed capacity in the state of California. This practice shall consist of no less than six continuous months and of no less than 20 hours per week.

Petitioner shall not work for a nurses' registry or in any private duty position, a temporary nurse placement agency, as a faculty member in an accredited or approved school of nursing, or as an instructor in a board approved continuing education course except as approved, in writing, by the board. Petitioner shall work only on a regularly assigned, identified and predetermined work site(s) and shall not work in a float capacity except as approved, in writing, by the board.

9. **Supervision Requirements** – Before commencing or continuing employment in any health care profession, petitioner shall obtain approval from the board of the supervision provided to petitioner while employed.

Petitioner shall not function as a charge nurse (i.e., work in any healthcare setting as the person who oversees or directs licensed vocational nurses,

psychiatric technicians, certified nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during the period of probation except as approved, in writing, by the board.

10. **Completion of Educational Course(s)** – Petitioner, at her own expense, shall enroll in and successfully complete a course or courses substantially related to the violation(s) no later than the end of the first year of probation.

The coursework shall be in addition to that required for license renewal. The board shall notify petitioner of the course content and number of contact hours required. Within 30 days of the board's written notification of assigned coursework, petitioner shall submit a written plan to comply with this requirement. The board shall approve such plan prior to enrollment in any course of study.

Upon successful completion of the course, petitioner shall submit "original" completion certificates to the board within 30 days of course completion.

11. **Maintenance of Valid License** – Petitioner shall, at all times, maintain an active current license with the board including during any period of suspension

If an initial license must be issued (Statement of Issues) or a license is reinstated, probation shall not commence until a license is issued by the board. Petitioner must complete the licensure process within two years from the effective date of this decision.

Should petitioner's license expire, by operation of law or otherwise, upon renewal or reinstatement, petitioner's license shall be subject to any and all conditions of this probation not previously satisfied.

12. **License Surrender** – During probation, if petitioner ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the conditions of probation, petitioner may surrender her license to the board. The board reserves the right to evaluate petitioner's request and to exercise its discretion whether to grant the request without further hearing. Upon formal acceptance of the tendered license, petitioner will no longer be subject to the conditions of probation.

Surrender of petitioner's license shall be considered a disciplinary action and shall become part of petitioner's license history with the board. A licensee who surrenders her license may petition the board for reinstatement no sooner than the following minimum periods from the effective date of the disciplinary decision for the surrender:

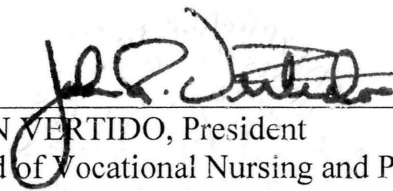
- Three years for reinstatement of a license surrendered for any reason other than a mental or physical illness; or

➤ One year for a license surrendered for a mental or physical illness.

13. **Violation of Probation** – If petitioner violates the conditions of her probation, the board, after giving petitioner notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation) of petitioner's license. If during the period of probation, an accusation or petition to revoke probation has been filed against petitioner's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against petitioner's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the board.
14. **Chemical Dependency Support & Recovery Groups** – Within five days of the reinstatement of her license, petitioner shall begin attendance at a chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse Support Group). Verified documentation of attendance shall be submitted by petitioner with each written report as required by the board. Petitioner shall continue attendance in such a group for the duration of probation.
15. **Abstain from Controlled Substances** – Petitioner shall completely abstain from the personal use or possession of controlled substances, as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined in sections 4021 and 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.
16. **Abstain from Use of Alcohol** – Petitioner shall completely abstain from the use of alcoholic beverages and products containing alcohol.
17. **Submit Biological Fluid Samples** – Petitioner shall immediately submit to biological fluid testing, at petitioner's cost, upon request by the board or its designee. There will be no confidentiality in test results; positive test results will be immediately reported to the board and petitioner's current employer.

DATED: July 7, 2011

EFFECTIVE DATE: July 22, 2011



JOHN VERTIDO, President
Board of Vocational Nursing and Psychiatric
Technicians
Department of Consumer Affairs